

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1, 2, 6-8, 12, 35-37 and 43-45 were pending in this application. In this Amendment, Applicants have canceled claims 1, 2, 6-8, and 12 and added new claims 46-49. Accordingly, claims 35-37 and 43-49 will be pending herein upon entry of this Amendment. For the reasons stated below, Applicants respectfully submit that all claims pending in this application are in condition for allowance.

In the Office Action mailed December 4, 2003, claims 1, 2, 6-8, 12, 35-37 and 43-45 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,127,928 to Issacman et al. ("Issacman") alone. Because Applicants have canceled claims 1, 2, 6-8, and 12, this rejection is moot with respect to those claims. With regard to claims 35-37 and 43-45, Applicants respectfully traverse the rejection for the reasons stated below.

Applicants' representative wishes to thank Examiner Cuff for the courtesies extended during the personal interview conducted February 26, 2004. During the interview, Examiner Cuff expressed concern over the multiple inventions that he felt were present in the pending claims, citing a distinction between the recitations of claims 1, 2, 6-8, and 12 and those of claims 35-37 and 43-45. In light of this concern and of the Applicants' desire to expedite prosecution, Applicants have elected to cancel claims 1, 2, 6-8, and 12 without prejudice and to concentrate instead on seeking allowance of claims 35-37 and 43-45.

In the Office Action, Examiner Buchanan rejected claims 35-37 and 43-45 as unpatentable over Issacman alone, stating that it would be obvious to apply the system of Issacman to a retail operation. Examiner Buchanan further stated that, based on Issacman, it would be obvious to interrogate an RFID tag at any point in a supply chain (including a fitting room) so that analyses could be performed to provide statistics on a variety of quantities (including correlations between fitting room activity and sales). Applicants respectfully submit, however, that the methods relating to tracking consumer interest based on fitting room activity, as recited in claims 35-37 and 43-45, are wholly different than conventional supply-chain tracking. Indeed, the novel use of RFID tagging in the context of fitting room traffic enables a systematic and comprehensive capture of data on consumer interest that does not appear in the prior art. As agreed during the in-person interview with Examiner Cuff, this tracking of items through fitting rooms to generate consumer interest data is an aspect of the present invention that was not addressed in the Office Action and is neither taught nor suggested by Issacman. Applicants therefore respectfully submit that claims 35-37 and 43-45 are patentable over the prior art of record.

Applicants have also added new claims 46-49, which each depend from one of independent claims 35, 36, and 37, and which recite further aspects of the tracking of consumer interest in the context of fitting room traffic. Support for these new claims can be found in the specification at, for example, paragraph [0083]. Applicants respectfully submit that new claims 46-49 are patentable over the prior art of record due at least to their dependencies on one of claims 35, 36, and 37.

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In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.


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Respectfully submitted,

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